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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)	
)	
Telephone Number Portability)	CC Docket No. 95-116
)	RM 8535
)	

**WORLDCOM, INC. PETITION FOR CLARIFICATION OR,
IN THE ALTERNATIVE, RECONSIDERATION**

WorldCom, Inc. ("WorldCom") hereby files its petition for clarification or, in the alternative, reconsideration, of the Commission's Third Report and Order, CC Docket No. 95-116, RM 8535, issued May 12, 1998 ("Third Report and Order") in the above-captioned proceeding. While generally supporting most aspects of the Third Report and Order, WorldCom seeks Commission clarification or, if necessary, reconsideration on several issues critical to the equitable and competitively neutral deployment of local number portability ("LNP").

I. INTRODUCTION AND SUMMARY

WorldCom, Inc., through its wholly-owned subsidiaries WorldCom Technologies, Inc., MFS Telecom, Inc., Brooks Fiber Properties, Inc., WorldCom Network Services (d/b/a WilTel Network Services), and UUNET Technologies, Inc., provides its business and residential customers with a full range of facilities-based and fully integrated local, long distance, and international telecommunications services, and information services. In particular, WorldCom is one of the world's leading facilities-based interexchange carriers ("IXCs") and competitive local exchange carriers ("CLECs").

WorldCom seeks clarification or, in the alternative, reconsideration of three discrete aspects of the Third Report and Order. First, the Commission should clarify that the

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true-up allocation mechanism to be undertaken by limited liability companies ("LLCs") and the local number portability administrator ("LNPA") should cover the entire base of all carriers, as envisioned by Congress. The Commission also should clarify that the regional LNPAs must bill and collect each carrier's proportionate share of the costs of the regional database, and issue credits to those carriers which have shouldered the total cost burden to date. Finally, the Commission should clarify the definition of "shared costs."

II. THE COMMISSION SHOULD CLARIFY OR, IF NECESSARY, RECONSIDER CERTAIN IMPORTANT ELEMENTS OF ITS LNP COST RECOVERY ORDER

A. The True-Up Mechanism Should Include All Carriers

The Commission has allowed LLCs and the LNPA to develop a true-up formula to rectify the financial inequity that resulted from certain LECs having to meet mandated LNP deadlines in advance of the release of a federal cost-allocation order for LNP. The Third Report and Order stated:

We are aware that some carriers have already begun paying their regional database administrators based on temporary agreements negotiated by the regional LLCs. We will permit, but not require, each regional administrator and LLC to adjust prospectively through a reasonable true-up mechanism in the future bills of those carriers that participated in such agreements so that the shared costs each such carrier will have contributed approaches what those carriers would have paid had an end-user telecommunications revenue allocator been in place when carriers started paying the regional administrators. Permitting the regional administrators and LLCs to perform such true-ups ensures that costs are recovered from carriers in a manner consistent with our rules, while accounting for the period prior to the effective date of our rules and recognizing that agreements may have been reasonable mechanisms to recover

regional database costs on a temporary basis pending this Third Report and Order.¹

WorldCom requests that the Commission clarify that such true-ups be performed using as a base the universe of all carriers. As a result, those carriers who have been paying monthly during the first several phases of LNP implementation would then receive a credit based on what they should have been paying if all carriers (as mandated by the Telecommunications Act) had indeed been paying from the initiation of billing by the LNPA. Although WorldCom believes that this wholly equitable and lawful scenario was envisioned by the Commission, nonetheless the Commission should state so definitively. This clarification is requested because certain carriers who have not contributed to date have indicated in various industry fora that they have no obligation to contribute to the entire cost of LNP. Having the Commission clarify this point now will minimize confusion later.

Indeed, there is no other conclusion that is consistent with the 1996 Act, and with equitable federal policy. If certain carriers or classes of carriers -- PCS carriers, wireless carriers, certain CLECs or ILECs -- are excluded from a true-up mechanism, carriers in the top 100 metropolitan statistical areas ("MSAs") who have been paying the LNPA will be penalized financially by such a competitively discriminatory mechanism. In WorldCom's view, a "reasonable" mechanism must be competitively neutral, and must not give one carrier or class of carriers a competitive advantage in the marketplace. Carriers such as WorldCom had to sign User Agreements with the LNPA, and have been billed since last Fall by the LNPA in order to be LNP-compliant to meet Commission deadlines prior to the release of the cost allocation order.

¹ Third Report and Order at para. 117.

Having this small group of carriers bear the entire cost burden of implementing LNP on behalf of all carriers allows non-paying carriers to direct more funding to competitive activities. It is not competitively neutral treatment to make a subgroup of carriers pay far longer, or far more, for LNP than other carriers in the industry.

Therefore, the true-up mechanism that the LLCs should give to the LNPA must use as a base the information derived from its end-user revenue data requests to all carriers, subsequent collection, and calculation of proportionate amounts to be paid. To do otherwise -- say, by only applying the end-user revenue formula to the original paying group of carriers or to the group of carriers who have signed User Agreements -- would discriminate competitively against the early-paying or signed-User Agreement group of carriers to the financial benefit of other carriers. In fact, such an action would make the "cost-causer" pay, which is flatly inconsistent with the Commission's view, and Congress' mandate, that "all carriers" must pay in a competitively neutral way.

Additionally, all carriers have been on notice since February 1996 that the "cost of ... number portability shall be borne by all carriers in a competitively neutral basis as determined by the Commission."² Carriers now cannot justifiably plead ignorance or surprise to the financial obligations that finally are coming due. As the true-up will be proportionately based just like the allocation formula, no favoritism or discrimination will occur and competitive neutrality will be ensured.

WorldCom also requests the Commission to clarify that its language regarding no

² 47 U.S.C. Section 251 (e)(2).

retroactive assessment on "later entrants" means those new entrants to the industry. The Commission "decline[d] to implement a true-up mechanism under which later entrants reimburse previous participants."³ This must be read in conjunction with another statement in which the Commission distinguishes "this type of true-up mechanism from the one we are allowing, but not requiring, regional database administrators to implement to ensure that carriers which began paying for regional database costs before the release of this Third Report and Order will eventually pay for those costs in accordance with our end-users telecommunications revenues allocator."⁴ WorldCom submits that the FCC's statement against implementing a true-up mechanism for later entrants means carriers newly entering the telecommunications business, not carriers now in business and "new" to paying LNP costs. If the Commission means that carriers now in existence, and which have not yet begun paying towards LNP, may not receive their proportionate amount of previously paid shared NPAC costs, the Commission would be penalizing certain ILECs and CLECs that signed User Agreements with the LNPA and who have been paying for LNP in the absence of an FCC-issued cost allocation order. As the Commission stresses the theme of competitive neutrality (which also happens to be a Congressional mandate), WorldCom does not believe the Commission intends to penalize those LECs who have been billed by the LNPA since October 1997, and who, on behalf of the industry, discharged financial obligations resulting from legislative and regulatory decrees.

Certain carriers in the top 100 MSAs may have chosen not to sign the "User

³ Third Report and Order at para. 119.

⁴ Third Report and Order at n. 389.

Agreement" under which carriers have been billed for shared number portability administration center ("NPAC") costs, or were not billed under an interim cost allocation formula unable to include all carriers in such cost assessment. The fact they have not been paying from the beginning of the billing period, however, does not absolve them of the responsibility to bear costs in a competitively neutral manner. By the same token, neither these nor other carriers in areas in or beyond the top 100 MSAs should be penalized for not paying at the start of the billing period of the respective contracts in each region by getting any sort of finance charges. Neither should non-paying carriers be exempt from inclusion in a true-up formula to bear their proportionate amount from the start of the respective billing period in each region.

To dispel confusion and uncertainty, WorldCom requests the Commission to designate later entrants as carriers who come into existence after the LNPA undertakes its first billing and collection data request and who should then be billed proportionately for the time they are in existence.

B. Regional Billing and Collection Activities Must Reflect Competitive Neutrality

The Commission required telecommunications carriers to bear the shared costs on a regional basis because such a plan is most consistent with the regional nature of the databases, and because a national approach would require designation of a national administrator.⁵ Each LNPA is to collect sufficient revenues from all telecommunications carriers providing telecommunications services in the areas that regional database serves to fund

⁵ Third Report and Order at para 116.

the operation of that database. The LNPA is to subtract charges it collects from strictly wholesale carriers, and then distribute the remaining shared costs based upon each remaining carriers' proportion of the end-user revenues collected by all carriers in that region.

WorldCom requests the Commission to clarify that the LNPA is to bill each carrier for its proportionate share of the costs of the regional database. Further, the Commission must state that the LNPA may not bill that small group of carriers who have signed User Agreements the total costs of the regional database with the intention of somehow crediting those carriers if and when other carriers pay their proportionate share. All carriers must bear the costs of LNP in a competitively neutral manner, and that means quite literally all carriers are to be billed in a competitively neutral manner and to pay the costs of LNP.

The LNPA in each region must be made "whole," but not via the wallets of only a few carriers which have signed User Agreements with the LNPA. Such a billing mechanism - making a few carriers pay 100 percent of the costs, and then crediting back as other payments flow in after other carriers are billed at a later date -- is discriminatory and in no way competitively neutral.

If it fears chronic non-payment from a carrier, an LNPA is free to take preventative steps by asking the Commission to agree to expedited action on such a complaint. The LNPA is also free to request the Commission to reconsider its finding that no special enforcement mechanism is necessary,⁶ so the LNPA does not endure having non-payment complaints languish for months at end. WorldCom urges the Commission to address non-

⁶ Third Report and Order at para. 121.

payment concerns before they become a painful financial reality.

If the LNPA has valid concerns regarding full payment in a timely fashion from all carriers, a modest but fair "safety factor" amount might appropriately be added to *all* carriers' bills. It remains incumbent, however, on the LNPA to undertake with Commission enforcement payment by all carriers.

In addition to directing the LNPA to bill and collect on a regional basis based on an end-user formula of intrastate, interstate and international revenues, the Commission requires carriers to report those end-user revenues on a regional basis. The Commission also noted that "one of the objectives of the biennial review of our regulations required under the Communications Act is to consider ways to reduce filing burdens on carriers."⁷

WorldCom requests the Commission to consider how national carriers and multi-regional carriers, such as interexchange, CATV-based, and wireless carriers, as well as certain LECs and CLECs, may report their end-user revenues in total and have such figures then be divided among the seven regional databases. To cause national carriers such as WorldCom, MCI, AT&T, Sprint and GTE, among others, for example, and other multi-regional carriers, to calculate end-user revenues for the three categories on a state-by-state basis within a region is indeed an onerous paperwork burden.

Certainly, designating regional LNPAs to work jointly for national billing would alleviate the problem. As there is only one LNPA now, WorldCom is confident that the LNPA could undertake such billing activity on a national level, either directly or via sub-contracting.

⁷ Third Report and Order at para 116.

In the future, if more than one LNPA exists, the directive that all LNPAs must work jointly as appropriate for national billing and collecting should accomplish the same goal of timely and fair payments.

It is unclear why the Commission believes that it would have to designate a national billing and collecting agent other than the LNPA. The fact that the National Exchange Carrier Association ("NECA") volunteered to administer the allocation process if a nationwide mechanism was chosen,⁸ in no way requires the Commission to put out for bid or to award such activity to NECA. It is WorldCom's understanding that the seven LLCs which eventually contracted with Lockheed Martin IMS ("LM IMS") as the LNPA also required LM IMS to undertake billing and collection activity. WorldCom notes that all parties knew prior to the LNP contracts being signed starting in 1997 -- in fact as early as February 1996, and much earlier than the May 1998 cost allocation order -- that all carriers were to bear the costs of LNP and attendant billing and collection activity would follow.

As the Commission noted, it may consider further in the biennial review or other proceedings how best to administer the allocation of the shared costs with the intent of reducing the filing burden on carriers. WorldCom asks the Commission to reconsider that end-user revenues must be reported on a regional basis by those carriers who are national or multi-regional in scope.

⁸ Third Report and Order at para 115.

C. The Scope Of Shared NPAC Costs Should Be Clarified

Carriers using the NPAC pay various shared NPAC costs and carrier-specific charges, such as port connection charges. WorldCom asks the Commission to clarify that shared NPAC costs include the shared database costs, future statement of work ("SOW") modifications (unless carrier-specific) as well as porting charges.

WorldCom also asks the Commission to clarify that if LNP implementation causes public safety concerns which must be addressed on a technical and operational level, any NPAC changes and attendant fees of any type necessitated by public safety either on a national or regional basis also be billed as shared costs to be borne by all carriers, and not just those few carriers which have signed User Agreements and have a legal financial obligation to the NPAC.

III. CONCLUSION

For the reasons given, the Commission should clarify or, if necessary, reconsider key elements of its LNP Cost Recovery Order. In particular, the Commission should direct that: (1) all carriers in existence today bear their proportionate fair share of the total NPAC shared costs in a true-up mechanism, (2) the LNPA should not burden one small subgroup of carriers in the billing and collection process, (3) billing and collection activity include a national scope,

and (4) shared NPAC costs include not only database costs but national SOWs at a minimum and as necessary public safety concerns as related to or caused by LNP.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'R. S. Whitt', written over a horizontal line.

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July 29, 1998

CERTIFICATE OF SERVICE

I, Richard S. Whitt, hereby certify that I have this 29th day of July, 1998, sent a copy of the foregoing "WorldCom, Inc. Petition for Clarification Or, In The Alternative, Reconsideration," by hand delivery to the following:

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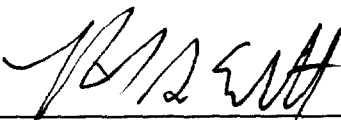
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